

### ***REMARKS***

This is a full and timely response to the outstanding Office action mailed October 19, 2006. Upon entry of the amendments in this response claims 72-84 are pending. More specifically, claims 72, and 79 are amended. These amendments are specifically described hereinafter.

#### **I. Present Status of Patent Application**

Claim 72 is objected to because of alleged informalities. Claims 72-82 and 84 are rejected under 35 U.S.C. 101 because the claims are allegedly directed to non-statutory subject matter. Claims 72, 74-76, 79, and 81 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by *Urakoshi* (U.S. 6,067,564). Claims 73, 80, 77-78, and 83-84 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Urakoshi* in view of *Wasilewski* (U.S. 5,420,866). Claim 82 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Urakoshi* in view of *Chaney* (U.S. 6,035,037). These rejections are respectfully traversed.

#### **II. Examiner Interview**

Applicant first wishes to express sincere appreciation for the time that Examiner Pich spent with Applicant's representative Benjie Balser during a January 12, 2007 telephone discussion regarding the above-identified Office Action. During the interview, various features described in the patent application and recited in the independent claims, including an entitlement unit number, and *Urakoshi* were discussed, and the outcome of this discussion is addressed herein. Applicant respectfully submits that no admission was made by Applicant in regard to whether the term in contention reads on tier authorization data. Applicant also argued that one of ordinary skill in the art would indeed understand the meaning of entitlement unit number in view of the specification as a whole, as well as in view of at least one exemplary embodiment. Other issues discussed include the rejections under 35 U.S.C. 101. During the conversation, Examiner Pich seemed to indicate that it would be potentially beneficial for Applicant to file this amendment and response. Thus, Applicant respectfully requests that Examiner Pich carefully consider this amendment and response.

**III. Objection to Claim 72**

The Office Action rejects claim 72 because the claimed invention allegedly contains an informality. In an effort to address the Examiner's concerns, claim 72 has been amended to recite "providing the terminal with an authorized entitlement unit number, wherein responsive to a user selecting a given service..." In view of this amendment, Applicant respectfully submits that the rejection to claim 72 should be withdrawn.

**IV. Rejections of Claims 72-82 and 84 Under 35 U.S.C. § 101**

The Office Action rejects claims 72-82 and 84 under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter. In an effort to address the Examiner's concerns, claim 72 has been amended to recite "and displays the given service." In view of this amendment, Applicant respectfully submits that the rejection to claims 72-78 should be withdrawn.

Also in an effort to address the Examiner's concerns, claim 79 has been amended to recite "and displaying the given service if the terminal is authorized to access it." In view of this amendment, Applicant respectfully submits that the rejection to claim 79-82 and 84 should be withdrawn.

**V. Rejections Under 35 U.S.C. §102(e)****A. Claims 72 and 74-76**

The Office Action rejects claims 72 and 74-76 under 35 U.S.C. §102(e) as allegedly being anticipated by *Urakoshi* (U.S. Patent No. 6,067,564). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

**Independent claim 72**, as amended, recites:

72. A method of providing a terminal in a conditional access system with services, the method comprising the steps of:

*associating services with entitlement unit numbers, an entitlement unit number corresponding to a particular package of bundled services, wherein the entitlement unit number is carried in a payload of an entitlement control message (ECM);*

providing the terminal with an electronic program guide that associates universal service identification numbers to services;

providing the terminal with an entitlement unit table that translates universal service identification numbers to entitlement unit numbers; and

providing the terminal with an authorized entitlement unit number, wherein responsive to a user selecting a given service, the terminal determines whether the terminal is authorized to access the given service using the electronic program guide, the entitlement unit table, and the authorized entitlement unit number and displays the given service.

(Emphasis added).

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988). Applicant respectfully submits that independent claim 72 is allowable for at least the reason that *Urakoshi* does not disclose, teach, or suggest at least **associating services with entitlement unit numbers, an entitlement unit number corresponding to a particular package of bundled services, wherein the entitlement unit number is carried in a payload of an entitlement control message (ECM)**. The Office Action alleges that “*Urakoshi* discloses... Associating services with entitlement unit numbers, an entitlement unit number corresponding to a particular package of bundled services (Fig 11, item 111; col 5, lines 3-13; and col 7, lines 40-42)” *See Office Action*, page 4. As defined in the specification, in at least one embodiment, an entitlement

unit is a package of bundled services. See *Application*, page 1, line 15. An entitlement unit number, therefore, may be a number that identifies a particular bundle. The entitlement unit numbers, along with the control words, are contained in the entitlement control message. See *Application*, page 5, lines 2-3.

The Office Action alleges that an entitlement unit number may be one of a data number, a channel number, a start time, an end time, a price, and a monthly charge limit. See *Office Action*, pgs. 4-5. However, Applicant respectfully submits that these interpretations do not agree with the specification taken as a whole, and in respect to exemplary embodiments presented in the specification. In one exemplary embodiment, a decryptor “decrypts the entitlement control message ... to reveal a list of all entitlement unit numbers to which the currently received service belongs. For example, a first entitlement unit may include both HBO and Cinemax, whereas a second entitlement unit may include only HBO.” *Application*, pg. 6, lines 5-12. Applicant respectfully submits that one of ordinary skill in the art, taking into consideration the cited section of the specification and the specification taken as a whole, would not interpret an entitlement unit number as one of a data number, a channel number, a start time, an end time, a price, and a monthly charge limit as offered by the Office Action. Regardless, *Urakoshi* does not disclose an entitlement unit number carried in a payload of an ECM as claimed. Therefore, *Urakoshi* does not anticipate independent claim 72, and the rejection should be withdrawn.

Because independent claim 72 is allowable over the cited references of record, dependent claims 74-76 (which depend from independent claim 72) are allowable as a matter of law for at least the reason that dependent claims 74-76 contain all the steps/features of independent claim 72. Therefore, since dependent claims 74-76 are patentable over *Urakoshi*, the rejection to claims 74-76 should be withdrawn and the claims allowed.

**B. Claims 79 and 81**

The Office Action rejects claims 79 and 81 under 35 U.S.C. §102(c) as allegedly being anticipated by *Urakoshi* (U.S. Patent No. 6,067,564). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

**Independent claim 79**, as amended, recites:

79. A method of providing a service to a terminal in a conditional access system, the method implemented at the terminal and comprising the steps of:

receiving an electronic program guide that associates universal service identification numbers to services;

*receiving an entitlement unit table that translates universal service identification numbers to entitlement unit numbers, an entitlement unit number corresponding to a particular package of bundled services, wherein the entitlement unit number is carried in a payload of an entitlement control message (ECM);*

receiving an authorized entitlement unit number;

receiving user input for a given service;

determining whether the terminal is authorized to access the given service using the electronic program guide, the entitlement unit table, and the authorized entitlement unit number; and

displaying the given service if it the terminal is authorized to access it.

(Emphasis added).

For a proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features/steps of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988). Applicant respectfully submits that independent claim 79 is allowable for at least the reason that *Urakoshi* does not disclose, teach, or suggest at least **receiving an entitlement unit table that translates universal service identification numbers to entitlement unit numbers, an**

**entitlement unit number corresponding to a particular package of bundled services, wherein the entitlement unit number is carried in a payload of an entitlement control message (ECM).** The Office Action alleges that “*Urakoshi* discloses... Receiving an entitlement unit table that translates universal service identification numbers to entitlement unit numbers, an entitlement unit number corresponding to a particular package of bundled services (Fig 1, item 111; Fig 16-17; and col 8, lines 15-24).” See *Office Action*, page 6. As defined in the specification, in at least one embodiment, an entitlement unit is a package of bundled services. See *Application*, page 1, line 15. An entitlement unit number, therefore, may be a number that identifies a particular bundle. The entitlement unit numbers, along with the control words, are contained in the entitlement control message. See *Application*, page 5, lines 2-3.

The Office Action alleges that an entitlement unit number may be one of a data number, a channel number, a start time, an end time, a price, and a monthly charge limit. See *Office Action*, pgs. 4-5. However, Applicant respectfully submits that these interpretations do not agree with the specification taken as a whole, and in respect to exemplary embodiments presented in the specification. In one exemplary embodiment, a decryptor “decrypts the entitlement control message ... to reveal a list of all entitlement unit numbers to which the currently received service belongs. For example, a first entitlement unit may include both HBO and Cinemax, whereas a second entitlement unit may include only HBO.” *Application*, pg. 6, lines 5-12. Applicant respectfully submits that one of ordinary skill in the art, taking into consideration the cited section of the specification and the specification taken as a whole, would not interpret an entitlement unit number as one of a data number, a channel number, a start time, an end time, a price, and a monthly charge limit as offered by the Office Action. Regardless, *Urakoshi* does not disclose an entitlement unit number carried in a payload of an ECM as claimed. Therefore, *Urakoshi* does not anticipate independent claim 79, and the rejection should be withdrawn.

Because independent claim 79 is allowable over the cited references of record, dependent claim 81 (which depends from independent claim 79) is allowable as a matter of law for at least the reason that dependent claim 81 contains all the steps/features of independent claim 79. Therefore, since dependent claim 81 is patentable over *Urakoshi*, the rejection to claim 81 should be withdrawn and the claim allowed.

**VI. Rejections Under 35 U.S.C. §103(a)****A. Claims 73 and 77-78**

The Office Action rejects claims 73 and 77-78 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Urakoshi* (U.S. Patent No. 6,067,564) in view of *Wasilewski* (U.S. Patent No. 5,420,866). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Because independent claim 72 is allowable over the cited references of record, dependent claims 73 and 77-78 (which depend from independent claim 72) are allowable as a matter of law for at least the reason that dependent claims 73 and 77-78 contain all the steps/features of independent claim 72. Therefore, the rejection to claims 73 and 77-78 should be withdrawn and the claims allowed.

Additionally, with regard to the rejection of claims 73 and 77-78, *Wasilewski* does not make up for the deficiencies of *Urakoshi* noted above. Therefore, claims 73 and 77-78 are considered patentable over any combination of these documents.

Regarding claim 73, the Office Action alleges that

“*Urakoshi* does not explicitly disclose wherein the authorized entitlement unit number is provided to the terminal in an entitlement management message (EMM). However, *Wasilewski* discloses transmitting information for controlling access to different programs or tiers of programs to a terminal via an entitlement management message (col 4, line 55-col 5, line 12). How much a user has to pay to access a given program is information for controlling access to different programs or tiers of programs.

At the time applicant's invention was made, it would have been obvious to one skilled in the art to modify *Urakoshi*'s invention according to the limitations recited in claim 73 in light of *Wasilewski*'s teachings. *One skilled would have been motivated to do so because Wasilewski discloses that EMM's were well known in the art at the time applicant's invention was made and that it was decided by [sic] a committee that program access information should be transmitted to a terminal via EMM's.*” (Emphasis Added)

See *Office Action*, page 7. Applicant respectfully submits that it would not have been obvious at the time of the invention to include the authorized entitlement unit number in an EMM. Instead, it would have been obvious to one skilled in the art to transmit the authorized entitlement

number in a bit map. It appears that this rejection of claim 73 has been made using hindsight. "It is impermissible ... simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps." In re Gorman, 933 F.2d 982, 987, 18 U.S.P.Q.2d 1885 (Fed. Cir. 1991). Since it would not have been obvious to one of ordinary skill in the art at the time of the invention to include the authorized entitlement unit number in the EMM, Applicant respectfully submits that the rejection should be withdrawn and the claim be allowed.

#### **B. Claims 80 and 83-84**

The Office Action rejects claims 80 and 83-84 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Urakoshi* et al (U.S. Patent No. 6,067,564) in view of *Wasilewski* (U.S. Patent No. 5,420,866). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Because independent claim 79 is allowable over the cited references of record, dependent claims 80 and 83-84 (which depend from independent claim 79) are allowable as a matter of law for at least the reason that dependent claims 80 and 83-84 contain all the steps/features of independent claim 79. Therefore, the rejection to claims 80 and 83-84 should be withdrawn and the claims allowed.

Additionally, with regard to the rejection of claims 80 and 83-84, *Wasilewski* does not make up for the deficiencies of *Urakoshi* noted above. Therefore, claims 80 and 83-84 are considered patentable over any combination of these documents.

Regarding claim 80, the Office Action alleges that

"Urakoshi does not explicitly disclose wherein the authorized entitlement unit number is provided to the terminal in an entitlement management message (EMM). However, Wasilewski discloses transmitting information for controlling access to different programs or tiers of programs to a terminal via an entitlement management message (col 4, line 55-col 5, line 12). How much a user has to pay to access a given program is information for controlling access to different programs or tiers of programs.

At the time applicant's invention was made, it would have been obvious to one skilled in the art to modify Urakoshi's invention according to the limitations recited in claim 73 in light of Wasilewski's teachings. One skilled would have



been motivated to do so because Wasilewski discloses that EMM's were well known in the art at the time applicant's invention was made and that it was decided by [sic] a committee that program access information should be transmitted to a terminal via EMM's." (Emphasis Added)

See *Office Action*, page 7. Applicant respectfully submits that it would not have been obvious at the time of the invention to include the authorized entitlement unit number in an EMM. Instead, it would have been obvious to one skilled in the art to transmit the authorized entitlement number in a bit map. It appears that this rejection of claim 80 has been made using hindsight. "It is impermissible ... simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps." In re Gorman, 933 F.2d 982, 987, 18 U.S.P.Q.2d 1885 (Fed. Cir. 1991). Since it would not have been obvious to one of ordinary skill in the art at the time of the invention to include the authorized entitlement unit number in the EMM, Applicant respectfully submits that the rejection should be withdrawn and the claim be allowed.

Regarding claim 83, the Office Action alleges that

"Wasilewski also does not explicitly disclose wherein each ECM includes an entitlement unit number that is carried in the payload of the ECM. However, Wasilewski discloses that the MPEG-2 Systems standard does not specify the format of an ECM. It would have been obvious to one skilled in the art to include an entitlement unit number in each entitlement control message. One skilled would have been motivated to do so because as the format of an ECM is not specified, ECM's are flexible enough to carry any type of data that might be needed." (Emphasis Added)

See *Office Action*, page 10. Applicant respectfully submits that it would not have been obvious at the time of the invention to include an entitlement unit number in each entitlement control message. Instead, it would have been obvious to one skilled in the art to send an entitlement unit number as a bit, representing a service, in a bit map. It appears that this rejection of claim 83 has been made using hindsight. "It is impermissible ... simply to engage in a hindsight reconstruction of the claimed invention, using the applicant's structure as a template and selecting elements from references to fill the gaps." In re Gorman, 933 F.2d 982, 987, 18 U.S.P.Q.2d 1885 (Fed.

Cir. 1991). Since it would not have been obvious to one of ordinary skill in the art at the time of the invention to include an entitlement unit number in each ECM, Applicant respectfully submits that the rejection should be withdrawn and the claim be allowed.

### **C. Claim 82**

The Office Action rejects claim 82 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Urakoshi* et al (U.S. Patent No. 6,067,564) in view of *Chaney* (U.S. Patent No. 6,035,037). For at least the reasons set forth below, Applicant respectfully traverses the rejection.

Because independent claim 79 is allowable over the cited references of record, dependent claim 82 (which depends from independent claim 79) is allowable as a matter of law for at least the reason that dependent claim 82 contains all the steps/features of independent claim 79. Therefore, the rejection to claim 82 should be withdrawn and the claims allowed.

Additionally and notwithstanding the foregoing reasons for allowability of independent claim 79, dependent claim 82 recites further features and/or combinations of features, as are apparent by examination of the claim itself, that is patently distinct from the cited references of record. Hence, there are other reasons why dependent claim 82 is allowable.

### **VII. Miscellaneous Issues**

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known for at least the specific and particular reason that the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

***CONCLUSION***

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 72-84 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,

/BAB/

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